

**CITY OF LODI  
COUNCIL COMMUNICATION**

TM

**AGENDATITLE:** Authorize Contingency Fee Payment to Folger, Levin & Kahn, LLP, for the Hartford Litigation.

**MEETING DATE:** November 7, 2007 City Council Meeting

**PREPARED BY:** City Attorney's Office

---

**RECOMMENDED ACTION:** Authorize Contingency Fee Payment to Folger, Levin & Kahn, LLP, for the Hartford Litigation.

**BACKGROUND INFORMATION:** The City Council approved a Contingency Fee Agreement with the law firm of Folger Levin & Kahn on March 21, 2007, for the Hartford litigation.

The Contingency Fee Agreement capped all monthly fees at \$50,000 plus expert fees and costs starting February 1, 2007. Folger, Levin & Kahn would also recover 25% of all recoveries from the City's insurance carriers in excess of \$4 million.

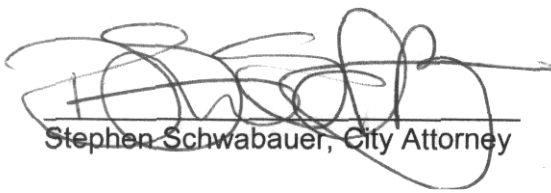
Attached is an invoice from Folger Levin & Kahn for contingency fees in the amount of \$1,603,125.00. Although several of the settlements call for extended payment terms, Folger Levin & Kahn requests Council authorize payment of their full contingency up front. Their request is reasonable in light of the facts that: 1) the contingency is roughly equal to what we would have been billed on a monthly basis; and 2) Folger Levin & Kahn has already expended the hours on the recovery. Accordingly, I recommend Council authorize immediate payment of the contingency amounts.

**FISCAL IMPACT:**

**FUNDING AVAILABLE:** Water Fund

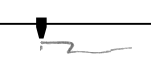
  
Kirk Evans  
Budget Manager

Approved:

  
Stephen Schwabauer, City Attorney

---

**APPROVED**

  
Blair King, City Manager

ATTORNEYS AT LAW

FOLGER LEVIN & KAHN LLP

Embarcadero Center West  
275 Battery Street, 23rd Floor  
San Francisco, California 94111  
e-mail accounting@flk.com

Federal I.D. 94-2500895

City of Lodi and Lodi Financing Corporation  
221 W. Pine Street  
Lodi, CA 95240

October 12, 2007

Attn: Stephen Schwabauer

Matter No. 20068-8003

Invoice No.: 104596

25% Contingency fee per March 19, 2007  
modification to fee agreement on amounts  
received by the City in excess of  
\$4 million, not including the USF&G  
or ACIC settlements.

Admiral settlement of \$687,500	171,875.00
Lloyds settlement of \$400,000	100,000.00
Westchester settlement of \$400,000	100,000.00
Federal settlement of \$225,000	56,250.00
AIG settlement of \$2,500,000 (\$1.6 million to be received November 1, 2007)	625,000.00
Transcontinental settlement of \$2,200,000 (\$1,500,000 to be received in January 2008 and \$700,000 to be received in January 2009)	550,000.00

Total Attorneys' Fees:	\$1,603,125.00
------------------------	----------------

Subtotal:	\$1,603,125.00
-----------	----------------

TOTAL BALANCE DUE:	\$1,603,125.00 =====
--------------------	-------------------------